# INFORMATION BULLETIN

2005-6

June 22, 2005

## Adjustments to Various Fiscal Measures and Harmonization Measures

This information bulletin provides a detailed description of the changes made to the refundable tax credit for major job-creating projects as well as a number of changes relating to other fiscal measures applicable to businesses that, for the most part, are technical in nature.

It also clarifies the application, following a death, of the refundable tax credit for home maintenance of an older person.

It also states the position of the ministère des Finances concerning various amendments made to federal tax legislation.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at (418) 691-2236.

The French and English versions of this bulletin are available on the website of the ministère des Finances at: www.finances.gouv.qc.ca

Paper copies are also available, on request, from the Direction des communications, at (418) 528-9323.

Finances Québec

# Adjustments to Various Fiscal Measures and Harmonization Measures


| | | |
|---|---|---|
| **1.** | **MEASURES CONCERNING BUSINESSES** | **3** |
| 1.1 | Changes to the refundable tax credit for major job-creating projects | 3 |
| 1.2 | Change to various refundable tax credits granted in certain regions | 7 |
| 1.3 | Clarification to the capital tax credit for certain types of investments | 9 |
| 1.4 | New penalty for late filing of an election concerning a capital dividend | 11 |
| 1.5 | Designation of the Centre d'expérimentation et de développement en forêt boréale (CEDFOB) | 12 |
| **2.** | **OTHER MEASURES** | **13** |
| 2.1 | Clarifications concerning the granting of the refundable tax credit for home maintenance of an older person following a death | 13 |
| 2.2 | Limitation of the right to a refund under a tax law | 14 |
| 2.3 | Federal legislation and regulations | 15 |

# 1. MEASURES CONCERNING BUSINESSES

## 1.1 Changes to the refundable tax credit for major job-creating projects

In the April 21, 2005 Budget Speech, a refundable tax credit was introduced for major job-creating projects in the information technology sector.

Briefly, this tax credit, which has a rate of 25%, is granted to an eligible corporation regarding wages paid to eligible employees working in the course of carrying out an eligible contract. However, such a corporation must obtain an eligibility certificate from Investissement Québec confirming that it is reasonable to consider that the carrying out of the eligible contract concluded by such corporation will lead to the creation of a minimum of 500 jobs within 24 months beginning on the date the eligible contract is concluded.

Essentially, this tax credit was introduced to consolidate the development of information technology throughout Québec while encouraging businesses to locate and expand here.

The follow-up carried out since the introduction of this tax credit have brought to light the need to adapt certain eligibility criteria to the current environment in the information technology sector, in particular regarding out-sourcing contracts obtained at the international level.

The eligibility conditions of the tax credit will accordingly be adjusted to more fairly reflect the proportion of jobs that are effectively created in Québec further to the conclusion of such out-sourcing contracts.

Moreover, because of the adjustments made to the eligibility conditions for this tax credit, the application details will in general be adjusted, in particular regarding payment of the tax credit.

### ❑ Eligible corporation

As mentioned above, to receive this tax credit, a corporation must obtain an initial eligibility certificate from Investissement Québec confirming that it is reasonable to consider that the carrying out of the eligible contract concluded by such corporation will lead to the creation of a minimum of 500 jobs within 24 months beginning on the date the eligible contract is concluded.

Briefly, this minimum job creation threshold was established on the premise that the conclusion of an out-sourcing contract at the international level would lead to the transfer, to Québec, of most of the jobs relating to such contract. In fact, it appears that only a part of the jobs relating to an international out-sourcing contract are effectively transferred to Québec.

Moreover, the time allowed to reach the minimum job creation threshold may be too restrictive, given that a certain time may elapse between the conclusion of a contract and the time when activities relating to the contract begin to be carried out.

In this context, the notion of eligible corporation will be changed to reduce the minimum job creation threshold to 150 jobs in Québec per eligible contract and to require that this threshold be reached within 24 months following the date that activities relating to such eligible contract begin to be carried out.

## ❑ Eligible contract

According to the existing terms and conditions, a contract may be eligible if it is concluded after December 31, 2004 and before January 1, 2008. However, the renewal of a contract concluded before January 1, 2005 cannot qualify as an eligible contract. Similarly, a contract concluded between an eligible corporation and a person with whom it is not at arm's length cannot qualify as an eligible contract.

- **Renewal of a contract**

Briefly, the restriction relating to the renewal of a contract concluded before January 1, 2005 is designed to prevent the extension of tax assistance currently granted regarding a contract. For example, in the absence of such a restriction, a corporation receiving, until December 31, 2005, the refundable tax credit for e-business activities carried out in a designated site could renew, during 2006, the contracts covered by this tax credit and thus continue to receive such tax assistance until December 31, 2016.

In such a situation, nothing would prevent a competing corporation from qualifying a contract as an eligible contract, because for such corporation it would not be a renewal. Accordingly, to ensure that the tax assistance currently granted regarding a contract is not extended in such a situation, a change will be made to the notion of eligible contract.

Thus, a contract concluded after December 31, 2004 and before January 1, 2008 cannot be an eligible contract if the majority of the activities covered by such contract previously gave rise to tax assistance administered in part by Investissement Québec.

In this regard, Investissement Québec will be responsible for determining if the majority of the activities covered by a given contract previously gave rise to such tax assistance. In the course of such determination, Investissement Québec may consider both the activities carried out and the number of employees whose duties are dedicated to carrying out such activities and regarding which eligibility certificates were previously issued.

- **Contract not at arm's length**

Briefly, the restriction relating to the contract concluded between an eligible corporation and a person with whom it is not at arm's length is designed to prevent corporations from out-sourcing activities to each other for the sole purpose of benefiting from the tax credit.

However, such a restrictive rule could have broader application than what was stipulated when it was introduced. For example, if a non-resident corporation concludes a contract with an international customer and sub-contracts the implementation of the contract to its subsidiary established in Québec, such a contract cannot qualify as an eligible contract, even though jobs are effectively created in Québec. If, instead, the non-resident corporation entrusted the implementation of the contract to a subsidiary established in Québec, such a contract could be an eligible contract for the purposes of the tax credit.

Accordingly, to avoid such a result, a change will be made to the notion of eligible contract so that a sub-contract concluded between an eligible corporation and a person with whom it is not at arm's length can qualify as an eligible contract, where the eligible corporation is in a position to demonstrate to Investissement Québec that such a contract relates to services ultimately supplied to a person with whom it is at arm's length and to a business carried on by such person outside Québec. The criterion of 150 employees working on carrying out the contract will apply to the sub-contract concluded between the eligible corporation and the person with whom it is not at arm's length and not to the initial contract concluded between the latter and the international customer.

## ❑ Eligible employees

Currently, the notion of eligible employee, regarding an eligible contract for a taxation year, means an employee of an establishment in Québec of the eligible corporation for which Investissement Québec has issued, for such year, an eligibility certificate certifying that the following conditions are satisfied:

— he holds, in the course of carrying out an eligible contract, a full-time job, with a minimum of 26 hours of work a week, for a stipulated minimum of 40 weeks;

— at least 75% of his duties are devoted to carrying out, supervising or directly supporting activities carried out under an eligible contract;

— he is not a specified shareholder of the eligible corporation.

Moreover, administrative tasks are not considered to be tasks relating to the execution of an activity carried out in the course of an eligible contract.

In the case where an eligible corporation carries out more than one eligible contract, the duties of some employees may be devoted to supporting activities carried out in the course of many contracts, and the proportion of such duties may be less than 75% for each such contract.

Accordingly, the notion of eligible employee will be streamlined to allow such a corporation to receive the tax credit regarding eligible salaries incurred regarding such employees.

Thus, an employee may qualify as an eligible employee, in relation to each of the eligible contracts carried out by his employer, if at least 75% of his duties are devoted to carrying out, supervising or directly supporting the activities carried out in the course of such eligible contracts, considered as a whole.

For example, an employee who devotes 40% of his time to supporting the activities carried out in the course of eligible contract A and 60% of his time to supporting the activities carried out in the course of eligible contract B may qualify as an eligible employee for the purposes of the tax credit if he otherwise satisfies the other eligibility conditions.

However, for the purposes of the minimum job creation threshold, such an employee will be considered to work at carrying out a single eligible contract.

In addition, the existing terms and conditions stipulate that Investissement Québec cannot issue an eligibility certificate for an employee of an eligible corporation, for a period, when it has previously issued, for such period, an eligibility certificate regarding the same employee for the purposes of another refundable tax credit or the refundable credit for employer contributions to the HSF for corporations located in E-Commerce Place.

For greater clarity, while no eligibility certificate will be issued regarding such an eligible employee for the purposes of another fiscal measure, Investissement Québec may consider such an employee for the purposes of the minimum job creation threshold in Québec for the purposes of the refundable tax credit for major job-creating projects.

## ❑ Payment of the tax credits

Currently, a corporation may not claim an earned tax credit before it has reached the minimum job creation thresholds. In general, a corporation may claim the first half of the tax credits it has earned once it has created a minimum of 250 jobs and can claim the other half once it has achieved the threshold of 500 jobs created.

It is also stipulated that should an eligible corporation not achieve the minimum threshold of 500 eligible jobs by the end of the period of 24 months applicable to it for an eligible contract, the eligibility certificates issued to it will be revoked by Investissement Québec and the first half of the tax credits previously granted, if any, will be recovered by means of a special tax.

Because of the changes made concerning the eligibility criteria for the tax credit, the restrictions relating to the payment of the tax credits will be withdrawn. Accordingly, a corporation may claim the tax credit earned before achieving the minimum job creation threshold. However, the terms and conditions relating to the revocation of eligibility certificates and the recovery of the tax credit will apply in the event that the minimum threshold of 150 jobs is not achieved by the end of the applicable period.

## ❑ Other application details

For greater clarity, the application details of the tax credit that are not changed by this information bulletin, in particular those relating to the limit on the number of eligible employees and to administrative formalities, will apply according to the conditions mentioned in the April 21, 2005 Budget Speech and with the necessary adaptations.

Accordingly, as was then mentioned, where the activities of an eligible corporation are covered both by this tax credit and by a tax holiday, the activities carried out in the course of an eligible contract and that may give rise to this tax credit may not constitute eligible activities for the purposes of such a tax holiday. As a corollary, the tax holiday granted to an employee and arising from a corporation's eligibility for such a tax holiday also may not be granted. In this regard, a concordant amendment will be made to the legislation relating to such tax holidays.

In addition, Investissement Québec may revoke an eligibility certificate issued to an eligible corporation regarding an eligible contract when it is reasonable for Investissement Québec to believe that the eligible corporation would not have obtained the eligibility certificate had it submitted its application disclosing the true facts. Investissement Québec will then send Revenu Québec a copy of the revoked eligibility certificate of the eligible corporation.

### ❑ Application date

These changes will apply as of the introduction of the refundable tax credit for major job-creating projects, i.e. regarding salaries incurred by an eligible corporation and paid to its eligible employees after December 31, 2004 and before January 1, 2017.

## 1.2 Change to various refundable tax credits granted in certain regions

In recent years, three refundable tax credits were put in place to encourage job creation in the resource regions of Québec, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

Generally speaking, these tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a covered region, until December 31, 2009.

More specifically, to determine its refundable tax credit, a corporation must compare its payroll of a given calendar year with that of its reference calendar year. Such reference calendar year corresponds to the calendar year preceding the one in the course of which the corporation began to carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec.

A change will be made to the terms and conditions for issuing eligibility certificates for the purposes of the three tax credits granted in certain regions.

### ❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec and whose activities are carried out in particular in the food, energy, metals or wood processing sectors.

According to the tax legislation, a taxpayer must, within the twelve months following the deadline for filing his tax return for a taxation year, declare the expenses he incurred in such year that entitle him to a refundable tax credit (twelve-month deadline).

Under its current administrative practice, Investissement Québec determines the reference calendar year of a corporation by considering the twelve-month deadline for claiming a tax credit. Accordingly, considering this deadline and the end of its fiscal year, a corporation making a claim before the end of calendar year 2005 may benefit from the tax credit for a period of 6 or 7 years.

In addition to making the administration of the tax credit more complex, such a practice discriminates corporations depending on the date of the end of their fiscal year. In this context, a change will be made to the terms and conditions of issuing eligibility certificates to set the reference calendar year of a corporation to a year that is a maximum of two years prior to the calendar year during which an application to obtain an eligibility certificate is made. For example, a corporation that applies to obtain an eligibility certificate during calendar year 2005 may elect calendar year 2003 or 2004 as the reference calendar year.

This change will apply to an application to obtain an eligibility certificate made after the date of publication of this information bulletin, as well as to an application to obtain an eligibility certificate filed prior to the date of publication of this information bulletin, in relation to which an adjustment concerning the reference calendar year is requested after that date.

For greater clarity, Investissement Québec may determine the reference calendar year according to its current administrative practice when the application to obtain an eligibility certificate is made prior to the date of publication of this information bulletin, provided such an application allows for such determination by Investissement Québec.

## ❑ Refundable tax credit for Gaspésie and certain maritime regions of Québec

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec is allowed with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie–Îles-de-la-Madeleine, Côte-Nord, Bas-Saint-Laurent[1] and the Matane RCM, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate is issued by Investissement Québec and whose activities are carried out in the development of marine or wind-power resources sectors.

---

1 The Bas-Saint-Laurent region is eligible regarding activities carried out in the marine biotechnology and the mariculture sector.

Like the change made in this regard to the refundable tax credit for processing activities in the resource regions, the change made to the terms and conditions of issuing certificates will also apply in the case of the refundable tax credit for Gaspésie and certain maritime regions of Québec, according to the same rules as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

### ❑ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay–Lac-Saint-Jean administrative region, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec and whose activities consist, in particular, in manufacturing finished or semi-finished products from aluminum that has undergone primary processing.

Like the change made in this regard to the refundable tax credit for processing activities in the resource regions, the change made to the terms and conditions of issuing certificates will also apply in the case of the refundable tax credit for the Vallée de l'aluminium, according to the same rules as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

## 1.3 Clarification to the capital tax credit for certain types of investments

A capital tax credit was introduced in the April 21, 2005 Budget Speech to foster investment in manufacturing and processing equipment.

More specifically, a corporation other than a financial institution that makes an eligible investment, during a taxation year, may claim a non-refundable capital tax credit, for such taxation year, equal to 5% of the amount of such eligible investment. A corporation will be allowed to claim such capital tax credit, for a taxation year, up to the tax on capital otherwise payable by it for such taxation year.

Moreover, where all or part of the capital tax credit relating to an eligible investment made during a taxation year cannot be applied against the tax on capital otherwise payable, for such taxation year, the non-refundable portion of such capital tax credit that exceeds the tax on capital otherwise payable for such taxation year may be carried over to subsequent taxation years and applied against the tax on capital otherwise payable for such years.

In addition, the tax legislation stipulates a tax holiday lasting ten years regarding major investment projects for which, briefly, an application was filed with the ministère des Finances before June 12, 2003. Essentially, this tax holiday enables eligible taxpayers that carry out a major investment project in Québec to benefit, for a period of ten years beginning on the starting date of the operation of the business relating to the major investment project, from an exemption from income tax, an exemption from the tax on capital and an exemption from employer contributions to the Health Services Fund (HSF), relating to the business carried on following the completion of the major investment project.

To maintain a direct link between the purpose of this tax holiday and the reason for which it is granted, namely the undertaking of a major investment project by a taxpayer, the tax holiday is granted for an investment project carried out by the taxpayer, i.e., more specifically, as if the activity carried on after the project is completed constitutes the carrying on of a separate business by a separate person.

As they were announced, the application details of the capital tax credit for certain types of investments are such that an eligible investment made by a corporation in the course of a business carried on further to a major investment project could give rise to a double tax benefit, namely the 5% capital tax credit and an exemption from the tax on capital.

To illustrate, a corporation that conducts other activities while at the same time carrying on the business linked to the major investment project could immediately benefit from the capital tax credit in addition to the exemption from the tax on capital relating to the business linked to the major investment project, even if the eligible investment for the purposes of the capital tax credit was carried out in the course of carrying on the business linked to the major investment project.

Similarly, since the capital tax credit can be carried forward indefinitely, a corporation whose only activity is carrying on the business linked to its major investment project could ultimately receive the capital tax credit and benefit from the exemption linked to the major investment project.

Such a result would not be appropriate from a fiscal policy standpoint since the tax holiday for major investment projects is designed to compensate exclusively the burden arising from carrying out such projects.

Accordingly, a clarification will be made such that an investment made in the course of carrying on a business linked to a major investment project cannot constitute an eligible investment for the purposes of the capital tax credit for certain types of investments.

This clarification applies as of April 21, 2005.

## 1.4 New penalty for late filing of an election concerning a capital dividend

Briefly, the "capital dividend account" of a private corporation is a historical account in which the non-taxable portion of capital gains made by the corporation is recorded. The amount of the account can be paid to the shareholders of such a corporation as a capital dividend, which is not taxable, but the corporation must file an election in this regard with the Québec and federal tax authorities, according to prescribed terms and conditions.

Moreover, at both the Québec and federal levels, the election concerning a capital dividend may be filed late.

The federal legislation stipulates a special rule covering late filing of an election concerning a capital dividend. Under this special rule, the Canada Revenue Agency will automatically accept the late filing of an election concerning a capital dividend if a late filing penalty is paid by the corporation. Briefly, such penalty corresponds to the lesser of $41.67 or 1/12 of 1% of the amount of the dividend covered by the election, per month late.

Québec's legislation contains no special rule governing the late filing of such an election. Consequently, the general application rule, better known as the "fairness package", that applies to the late filing of an election concerning a capital dividend. Accordingly, whether or not such an election is accepted depends on Revenu Québec's decision in this regard and a penalty of $100 per month late is payable, up to $5 000.[2]

This disparity in treatment regarding the late filing of an election concerning a capital dividend is not justified and increases the administrative burden on corporations and on Revenu Québec.

In this context and considering the gains in terms of simplicity arising from harmonization with the federal rules applicable in cases of late filing of an election concerning a capital dividend, a late election and a new specific penalty will be introduced.

More specifically, the tax legislation will be amended to stipulate a separate rule applicable to the late filing of an election concerning a capital dividend. Accordingly, subject to the other conditions otherwise stipulated being satisfied, in particular the condition regarding sending a copy of the election concerning a capital dividend filed with the Canada Revenue Agency, Revenu Québec will accept the late filing of an election concerning a capital dividend when a late penalty equal to at least $41.67 or an amount equal to 1/12 of 1% of the amount of the dividend covered by the election, for each month or part of a month late, is paid in relation to the late election.

For greater clarity, the general application rule will continue to apply regarding the filing of a revoked or amended election concerning a capital dividend.

This change will apply to an election concerning a capital dividend filed late after the day of publication of this information bulletin.

---

2 The criteria applied by Revenu Québec for this purpose are stated in Bulletin d'interprétation IMP. 1056.4-1 *Choix tardif, modifié ou révoqué*.

## 1.5 Designation of the Centre d'expérimentation et de développement en forêt boréale (CEDFOB)

### ❑ Tax credits for scientific research and experimental development

A refundable tax credit of 35% is allowed to a taxpayer in relation to scientific research and experimental development (R&D) activities carried out by an eligible public research centre under an eligible research contract concluded by the taxpayer with such a centre.

In this regard, the Centre d'expérimentation et de développement en forêt boréale (CEDFOB) will be recognized as an eligible public research centre for the purposes of the refundable tax credits for R&D.

This recognition will apply regarding R&D carried out after October 7, 2004, under an eligible research contract concluded after that date.

### ❑ Tax credit for technology adaptation services

The refundable tax credit for technology adaptation services was introduced to further support companies in their efforts to cooperate in research and innovation.

Briefly, the tax credit an eligible corporation may claim, for a taxation year, is calculated by multiplying by 50% the amount of eligible expenditures incurred by the eligible corporation, during such year, with an eligible liaison and transfer centre or an eligible college technology transfer centre (CCTT), as the case may be.

The Taxation Regulations will be amended to recognize the Centre d'expérimentation et de développement en forêt boréale (CEDFOB) as an eligible college technology transfer centre, for the purposes of the refundable tax credit for technology adaptation services.

This recognition will apply to eligible expenditures incurred by an eligible corporation after October 7, 2004, in relation to products or services offered by this eligible college technology transfer centre after that date.

Moreover, because of the integration of its activities in CEDFOB, the Centre collégial de transfert de technologie sur la forêt boréale will no longer be an eligible CCTT for the purposes of the refundable tax credit for technology adaptation services after October 7, 2004.

# 2. OTHER MEASURES

## 2.1 Clarifications concerning the granting of the refundable tax credit for home maintenance of an older person following a death

Since January 1, 2000, the refundable tax credit for home maintenance for an older person entitles individuals age 70 or over and participating in the employment service paycheque (ESP) mechanism to tax assistance equal to 23% of the eligible expenditures they have paid using this mechanism to obtain certain home-support services, up to $2 760 per year.

To receive the tax credit, an individual must send the ESP manager a payment order indicating, among other things, the total amount to pay to the supplier of services and the portion of this amount that constitutes an expenditure giving rise to the tax credit. The ESP manager executes the payment order by withdrawing, from the bank account specified by the individual, an amount equal to the excess of the amount needed to execute the payment order over the amount corresponding to 23% of the expenditure giving rise to the tax credit.

The result is that the tax credit is always paid to older persons in advance, as the eligible home support services are paid for using the ESP.

Currently, according to the legislative provisions stipulating the granting of the refundable tax credit for home maintenance of an older person, in every case where the bank account that was designated by an individual to the ESP manager for the execution of his payment orders is locked-in because of his death, it becomes impossible to grant him the tax credit regarding any expenditure subsequently paid by his legal representative.

To prevent the locking-in of funds of a deceased person from impeding his right to obtain the tax credit regarding expenditures attributable to eligible services provided after his death, the tax legislation will be amended.

More specifically, the tax legislation will be amended to provide, first, that the legal representative of a person who, immediately prior to his death, was registered with the ESP manager may validly send a payment order, on behalf of such person, regarding an expenditure attributable to eligible services provided prior to his death and after he reached age 70 and, second, that the amounts needed for the payment of such expenditure must be withdrawn from the bank account that the legal representative identifies.

These amendments will apply regarding a death occurring after August 31, 2005.

In addition, the tax legislation will be amended to allow the Minister of Revenue to determine or determine again the refundable tax credit for home maintenance of an older person to which an individual is entitled for the taxation year in which he dies, also taking into account any expenditure paid by his legal representative – other than using the ESP – for eligible services provided to the individual prior to his death and after he reached age 70, provided the following conditions are satisfied:

— the individual, immediately prior to his death, was validly registered with the ESP manager;

— the expenditure was invoiced following the individual's death or during the period of 30 days ending on the day of his death.

This amendment will apply regarding a death occurring before September 1, 2005.

## 2.2 Limitation of the right to a refund under a tax law

Currently, the tax legislation stipulates a limit to the refund a person may claim for a period or a taxation year ending no later than the date where he becomes bankrupt, within the meaning of the *Bankruptcy and Insolvency Act*, or files a proposal or a notice of intention to file such a proposal under that Act, hereunder referred to as the "limit date".

As a general rule, such person may not obtain a refund for a period ending no later than the limit date and may claim no refund or other amount to which he would have been entitled had he claimed it for a period ending no later than the limit date in a return filed for a period ending after that date.

However, this rule does not apply if, on the day the refund or the amount is claimed, the returns and reports for the periods or for the taxation years ending no later than the limit date were filed and if an amount equal to the amounts due[3] prior to that date was paid.

The tax legislation will be amended to stipulate that the limitation of the right to a refund under a tax law will also apply in the case where an order is made in accordance with the *Companies' Creditors Arrangement Act*.[4]

This amendment will apply to any claim or return filed by a person after the date of publication of this information bulletin.

---

3 Including amounts due under the *Act respecting the Société d'habitation du Québec*, the *Act respecting income support, employment assistance and social solidarity*, the *Act respecting financial assistance for education expenses* or the *Act respecting family benefits*.

4 R.S.C., 1985, c. C-36.

## 2.3 Federal legislation and regulations

### 2.3.1 Amendments relating to education savings

On July 1, 2005, the *Canada Education Savings Act*[5] will come into force further to the federal budget of March 23, 2004 in which the Canadian government announced that it intended to create the Canada Learning Bond and make improvements to the Canada Education Savings Grant (CESG).

The purpose of this legislation is to encourage funding of post-secondary education through the constitution of savings in registered education savings plans (RESP).

To reflect the fact that the government assistance to be paid in the form of the new Canada Learning Bond or in the form of a CESG will be stipulated in the *Canada Education Savings Act*, correlative amendments were made to the application and registration details of RESPs in the *Income Tax Act*.

Since the application and registration details of RESPs stipulated in the Québec tax system have always been similar to those stipulated in the federal tax system, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the federal amendments relating to education savings.[6]

These amendments will apply on the same dates as they will for federal tax purposes.

### 2.3.2 Amendments relating to new indemnities paid to Forces members and veterans

To modernize services and programs offered to members of the Canadian Forces, veterans and their families, the federal government has passed the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*.[7]

This Act stipulates payment of various indemnities that may consist of an earnings lost benefit, a supplementary retirement benefit, a permanent impairment allowance, an income support benefit, a disability award, a death benefit, a clothing allowance or a detention benefit.

It also stipulates the tax treatment applicable to the various indemnities it provides, by making certain amendments to the *Income Tax Act*.

More specifically, the *Income Tax Act* has been amended to stipulate that an individual must include in calculating his income from an office or employment, earnings lost benefits, supplementary retirement benefits and permanent impairment allowances he receives.

---

5 S.C. 2004, c. 26.

6 *Ibid.*, ss. 20 and 21.

7 S.C. 2005, c. 21.

However, the recipient of an income support benefit, a disability award, a death benefit, a clothing allowance or a detention benefit is not required to include such amounts in calculating his income.

Since, in general, Québec's tax system is harmonized with the federal tax system regarding the tax treatment applicable to various sources of income, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the federal amendments relating to the tax treatment applicable to the various indemnities paid under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*.[8]

These amendments will apply as of the same dates as they will for federal tax purposes.

8 *Ibid*., ss. 101 and 102.